



American Civil Liberties Union
of Montana
P.O. Box 1317
Helena, MT 59624
www.aclumontana.org

September 16, 2013

TO: Chairman Wanzenried and the members of the Children, Families, Health, and Human Services Interim Committee

RE: Public comment related to the committee's HJR 16 study and tours of Montana State Hospital, Montana State Prison, and Montana Developmental Center

ACLU OF MONTANA'S PUBLIC COMMENT FOR MONTANA STATE HOSPITAL TOUR

The ACLU of Montana believes the Montana State Hospital's practice of transferring to the Montana State Prison ("MSP") patients who are sentenced to the Department of Health and Human Services as Guilty But Mentally Ill is cruel and unusual and violates those patients' right to due process and human dignity. It appears that in some cases, patients are transferred from the state hospital simply because the forensic wing needs bed space, rather than for legitimate medical or penological reasons. In other cases, despite being a secure facility specifically intended to treat offenders with mental illness, the state hospital transfers forensic wing patients to MSP in response to an isolated violent incident, rather than attempting to treat the illness that caused the violence.

MSP is not classified as a mental health facility under Montana law, and does not provide adequate services to prisoners with mental illness transferred from the state hospital. Prisoners with mental illness are routinely held in isolation for prolonged periods of time, taken off their medications, denied mental health treatment and therapy, and put in punitive isolation for behavior that is a product of their mental illness. As a result, patients transferred to the prison suffer cruel and unusual punishment, often resulting in injury to themselves or others and severe mental deterioration.

The Montana State Hospital's transfer of these patients to MSP is inconsistent with their court-ordered sentence to DPHHS as a result of their mental illness; and violates their constitutional rights to due process and freedom from cruel and unusual punishment under both the Montana and U.S. Constitutions. Patients with mental illness in the forensic wing are entitled to the same protections as patients housed in other DPHHS facilities. This includes the right to adequate mental health treatment, humane treatment and preservation of human dignity. Transferring patients to MSP, where they are provided woefully inadequate mental health treatment and are punished for the symptoms of their mental illness, is a violation of these rights.

ACLU OF MONTANA'S PUBLIC COMMENT FOR MONTANA STATE PRISON TOUR

The ACLU of Montana believes the Montana State Prison ("MSP") does not provide adequate treatment to prisoners with mental illness, punishes prisoners for the symptoms of their mental illness, and generally treats those prisoners in a manner that exacerbates, rather than accounts for, their illness.

Specifically, the following practices violate the prisoners' constitutional guarantees and are counterproductive to society's goal of reducing the severity of mental illnesses that cause criminal behavior:

1. MSP's practice of placing prisoners with mental illness and developmental disabilities in solitary confinement, including max population and all levels of administrative segregation. Prisoners in locked housing are kept in isolation in their cells for 22 – 24 hours a day.
2. MSP's practice of punitive sanctions for prisoners with mental illness, including 24-hour lock down in disciplinary detention and behavior management programs.
3. MSP's punitive response to suicidal ideations, including behavior management programs, cell restriction, extreme property restriction, use of nutraloaf as a substitute for meals, suicide smocks, and no running water or plumbing in cells.
4. MSP's practice of using force on prisoners with mental illness, including cell extractions with pepper spray and/or tasers.
5. MSP's practice of prohibiting visits and phone calls while a prisoner is in disciplinary detention, on behavior management programs, and in certain levels of administrative segregation.
6. The standard of care provided by MSP's mental health staff is generally inadequate. Of particular concern are MSP's practices of: (i) discontinuing medications and re-diagnosing prisoners without meaningful evaluation and without regard to a prisoner's prior mental health history; (ii) providing primarily non-confidential, short meetings with mental health staff, rather than private, individual meetings where prisoners can frankly discuss their mental health issues; and (iii) the failure to provide group therapy or programming to prisoners in locked housing.

ACLU OF MONTANA'S PUBLIC COMMENT FOR MONTANA DEVELOPMENTAL CENTER

The ACLU of Montana believes the Montana Developmental Center's practice of transferring patients with developmental disabilities and/or mental illness to the Montana State Prison ("MSP") is cruel and unusual and violates those patients' right to due process and human dignity.

MSP is not classified as a mental health facility under Montana law, and does not provide adequate services to prisoners with developmental disabilities or mental illness. Such individuals are routinely held in isolation for prolonged periods of time, taken off their medications, denied therapy and treatment, and put in punitive isolation for behavior that is a product of their mental illness or disability. Patients with developmental disabilities at MSP often receive no or inadequate accommodations for requiring or recommended programming. As a result, patients transferred to the prison suffer cruel and unusual punishment, often resulting in injury to themselves or others and severe mental deterioration.

As such, the ACLU of Montana believes the Montana Developmental Center violates patients' rights to human dignity, due process and freedom from cruel and unusual punishment when transferring them to MSP.